

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

United States of America,

Plaintiff

v.

Angel Olvidio Escobar-Saballos,

Defendant

2:11-CR-00089-JAD-CWH

**Order Denying Second Motion for
Sentence Reduction**

[ECF No. 206]

On April 10, 2012, the Honorable Judge Philip M. Pro sentenced Angel Olvidio Escobar-Saballos to 120 months in prison for conspiracy to distribute methamphetamine and possession of methamphetamine with intent to distribute.¹ In November 2014, Amendment 782 to the sentencing guidelines reduced by two levels the base-offense levels for certain drug offenses. Shortly after the amendment took effect, I appointed Assistant Federal Public Defender Nisha Brooks-Whittington to determine whether Escobar-Saballos qualified for a reduction; she later withdrew as counsel and declined to move for the reduction. Escobar-Saballos then filed a pro se motion for a sentence reduction under the amendment, which I denied.²

Escobar-Saballos has now filed a second motion for a sentence reduction in which he reiterates that Amendment 782 is retroactive and applies to his sentence. As I explained in my previous order, the guidelines prohibit sentence reductions below the low end of the adjusted guideline range.³ Because Escobar-Saballos's 120-month sentence is less than the amended guideline range of 135–168 months' imprisonment, he is not eligible for a reduction under the

¹ ECF No. 108.

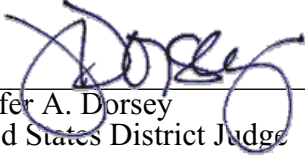
² ECF No. 205.

³ See U.S.S.G. § 1B1.10(b)(2)(A) (“the court shall not reduce the defendant’s term of imprisonment under 18 USC 3582(c)(2) . . . to a term that is less than the minimum of the amended guideline range”); see also *United States v. Tercero*, 734 F.3d 979 (9th Cir. 2013) (holding that “U.S.S.G. 1B1.10(b)(2)(A) prohibits reductions below the low end of the adjudged Guidelines range”); *United States v. Davis*, 739 F.3d 1222, 1223–1224 (9th Cir. 2014) (same).

1 amendment.⁴

2 Accordingly, IT IS HEREBY ORDERED that Escobar-Saballos's second motion for a
3 sentence reduction **[ECF No. 206] is DENIED.**

4 Dated this 21st day of February, 2017.

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6 Jennifer A. Dorsey
7 United States District Judge
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⁴ It appears that Escobar-Saballos's 120-month sentence was the result of a downward variance from his original guideline range of 168–210 months.